

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

ROBERT LEE EMORY, JR.,

Case No. 2:18-cv-02096-MC

Plaintiff,

ORDER

v.

MARK NOOTH, et al.,

Defendants.

MCSHANE, District Judge:

Plaintiff, an inmate at the Two Rivers Correctional Institution, filed suit under 42 U.S.C. § 1983 and alleged that defendants violated his Eighth Amendment rights by prohibiting him from purchasing shoes from an outside vendor, despite the fact that he had permission from a physician to do so. Plaintiff moves for a temporary restraining order and requests that this Court order defendants to allow him to purchase the shoes. Plaintiff's motion is denied.

A preliminary injunction is an "extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief." *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 22 (2008). To obtain preliminary injunctive relief, the moving party must

establish: 1) the likelihood of success on the merits of the underlying claims; 2) the likelihood of irreparable harm in the absence of preliminary relief; 3) the balance of equities tips in the movant's favor; and 4) an injunction is in the public interest. *Id.* at 20.

Plaintiff's allegations do not demonstrate a likelihood of success on the merits or irreparable harm to warrant the mandatory injunctive relief he seeks. Plaintiff fails to show a likelihood of success on the merits; i.e., that defendants' actions in prohibiting the purchase of supportive shoes from an outside vendor demonstrate deliberate indifference to his serious medical needs in violation of the Eighth Amendment. Second, plaintiff presents no evidence to show the likelihood of irreparable harm arising from being unable to purchase the shoes. Finally, plaintiff's allegations fail to show that the balance of equities tips in his favor or that the injunction he requests is in the public interest.

CONCLUSION

Plaintiff's Motion for Temporary Restraining Order (ECF No. 14) is DENIED. Plaintiff's Motion to Expedite (ECF No. 38) is DENIED as moot.

IT IS SO ORDERED.

DATED this 22nd day of July, 2020.

s/ Michael J. McShane
Michael J. McShane
United States District Judge